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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,999	11/24/2003	Brian Freeman	203.001PT	9560
7590	03/30/2006		EXAMINER	
Dwayne L. Bentley LAW OFFICE OF DWAYNE L. BENTLEY Suite 1112 16 Court Street Brooklyn, NY 11241			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	
			DATE MAILED: 03/30/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/722,999	FREEMAN, BRIAN	
	Examiner	Art Unit	
	Jerry Redman	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 January 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/24/2003
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Applicant's election of Group II-claims 1-7 in the reply filed on 1/10/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 8-11 are hereby withdrawn from consideration.

The applicant's information disclosure statement dated 11/24/2003 has been considered and a copy has been placed in the file.

Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. How/where does the wheel contact the refrigerator door? More specifically, how does the wheel contact the refrigerator during the motion/movement of the door during the swinging opening range of the door? If the wheel merely starts the door open, how does the door continue to move/swing in an opened position? Does the device also close/move the door between the open position to the closed position?

Claims 1-7 are further rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 6, and claim 2, line 4, the

phraseology "easily" is not readily understood by the Examiner. More specifically, how is "easily" defined?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, claims 1-4 and 7 are further rejected under 35 U.S.C. 102(b) as being anticipated by Arnell et al. (6,061,964). Arnell et al. ('964) disclose an automatic door control system comprising a door (80), a control module assembly (5) having a clutch/spring assembly, a drive train assembly (the motor, arm 48, and wheel 52), an IR signal (see Figure 1) to control the drive train assembly such that the wheel (52) contacts/moves the door (80). With respect to claim 4, the force required to move a door and more specifically, the force required to move the door between a rolling surface and a surface is defined as the following: "coefficient of rolling friction is the ratio of the frictional force, parallel to the surface of contact, opposing the motion of a body rolling over another, to the force, normal to the surface of contact, with which the bodies press against each other" (McGraw-Hill, Dictionary of Physics and Mathematics, copyright, 1978, page 167), which is a basic and well known equation which is defined between a fixed surface and rolling surface contacting the fixed surface.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

As best understood, claims 5 and 6 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Arnell et al. ('964). All of the elements of the instant invention are discussed in detail above except providing the overall force to be in the range of 10-50 pounds and the friction to be in the range of .1 to 1. It would have obvious to one of ordinary skill in the art at the time of the invention to provide the opening force and friction force to be within 10-50 and .1 to 1 respectively since these ranges are well known ranges for moving a door and more specifically, opening/moving a door refrigerator door and one of ordinary skill in the art would inherently provide the drive assembly to operate within these broad ranges.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Kurdziel discloses an assembly, which moves a closure between an open and closed position similar to that of the applicant's invention. U.S. patent to Ueno et al. disclose a device, which opens a door similar to that of the applicant's invention. U.S. patent to Spong et al. disclose an opening device for a closure similar to that of the applicant's invention.

Any inquiry concerning this communication should be directed to Jerry Redman
at telephone number 571-272-6835.



Jerry Redman
Primary Examiner